IN THE HIGH COURT OF JUDICATURE AT BOMBAY
O.O.C.J.

INCOME TAX APPEAL NO. 330 OF 2002

M/s. Lead Consultants Pvt.Ltd. .. appellant

v/s.

The Commissioner of Income-tax,
Central Circle 11, Range 3, Mumbai
& anr. .. Respondents

Mr.K.Gopal for appellant.

Ms.S.V.Bharucha i/by Mr. H.D.Rathod for respondents.

CORAM : R.M.LODHA AND
J.P.DEVADHAR, JJ.

DATED : 18th August, 2004

P.C.

Heard Mr.K.Gopal, the learned counsel for the assessee-appellant.

2. The Tribunal observed thus-

"In the instant case, the assessee carried on the business of providing services to its sister concern. There is no material on record to suggest that the land was purchased with an intention to construct office and accommodation to its employees and to run the office therefrom. In response to a query, during the course of hearing, the learned counsel submitted that the land purchased by the assessee could not be developed and ultimately sold. Thus, the so called intention behind the purchase of land could neither be traced from the record nor from subsequent conduct of the assessee. The learned counsel strongly relied upon one of the clauses in the Memorandum of Association. As could be seen from Memorandum of Association, the main object of the assessee-company was to carry on the business as Advisers and Consultants and ancillary or incidental object includes every conceivable trade that a businessman can carry on so that any act, however remote or unintended, can be brought within one of the ancillary objects listed out in

> Memorandum of Association. Clause 41 falls in list (c) "other objects". Under these circumstances, it is for the assessee to prove that the land was purchased with an intention or furtherance of the object specified in Memorandum of Association. Except purchasing the land, there is no other independent evidence to prove that the land was purchased with an intention to carry on any business enumerated in the Memorandum of Association to construct office premises thereon for utilization of the same in the business of providing services. Since, assessee has not discharged his primary onus on proving that the land was purchased for the purposes of using the same in the business, expenditure claimed by the assessee under section 36(1)(iii) is, in our considered view, not allowable as deduction."

3. No error is found in the aforesaid consideration of the matter by the Tribunal. No substantial question of law arises.

4. Appeal is dismissed in limine.

(R.M.LODHA, J.)

(J.P. DEVADHAR, J.)